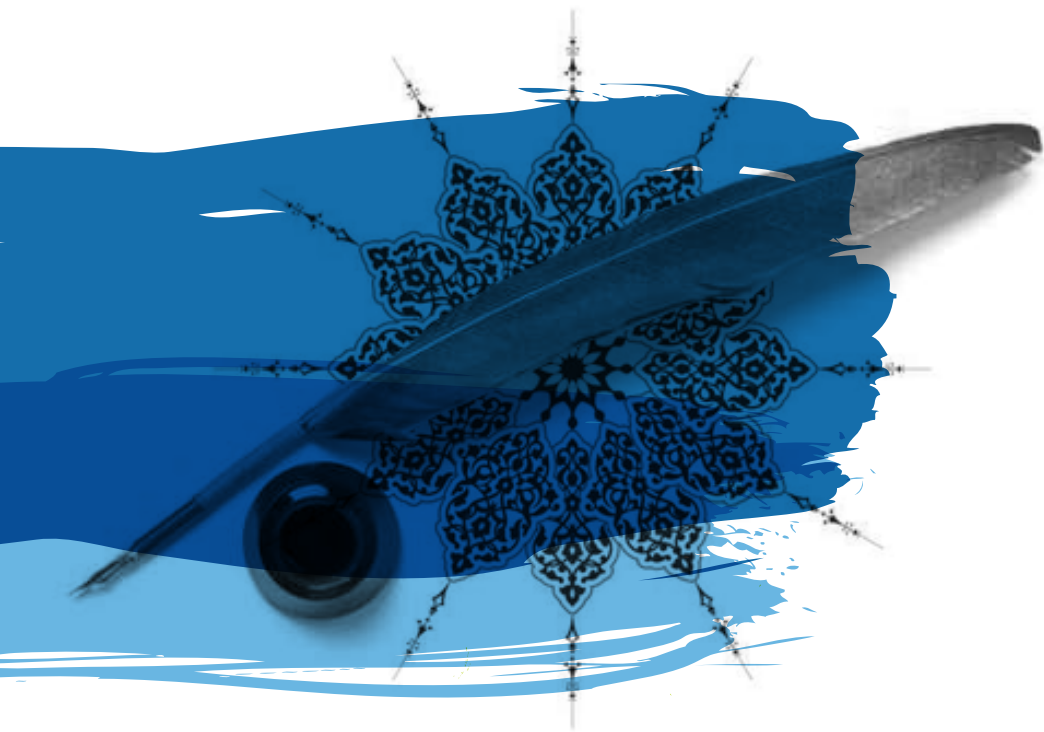


1st Ethical
Inspire one. Inspire many.



Your guide to preparing an **Islamic Will**

1stethical.com



In partnership with



The Shari'ah accuracy of this guide
has been authenticated by the
— Al-Qalam Shari'ah Scholar Panel

Introduction

All praise is for Allah, Lord and Sustainer of the Worlds. We praise Him, seek His aid and beg of His forgiveness. Indeed, Allah is the One who gives life, and He is the One who takes it, and to Him shall we return.



As Muslims, we are required to bear the anguish of losing a loved one with patience, to beseech our Creator to be merciful to the soul of the deceased, and most importantly, to remind ourselves of the temporary nature of this life, so that we may better prepare ourselves for the next.

Whilst many Muslims ensure funeral rites are properly observed whenever there is a death, there is much less emphasis given to ensuring the assets of the deceased are distributed amongst the family in accordance with Quranic requirements. This is a compulsory (fardh) obligation on the inheritors that is best achieved through preparing a legally valid Islamic Will.

This guide contains within it a legally valid DIY Islamic Will template, which can be completed reasonably easily and quickly. Before completing this DIY template, please first read some important information on Shari'ah, tax, ownership, family and legal considerations.

Please note 1st Ethical Charitable Trust cannot take any liability stemming from the use of this document. The contents herein are for information purposes only, and professional advice should be obtained in case of query.



Shari'ah & tax considerations

The assets of the deceased should be distributed accordingly, in order of priority:



A. All funeral expenses should be paid. It is perfectly acceptable for these expenses to be met voluntarily by one or more family members.

B. Any outstanding debts should be repaid.

C. Any bequests (wasiiyah) should be honoured as long as (i) their value does not exceed one-third of the value of the remaining net assets (assets left after debts and funeral expenses are paid), and also on condition that (ii) the recipient of the bequest is not an individual who is entitled under Shari'ah to receive a share (e.g. the spouse, child, parent, etc. of the deceased).

Many Muslims choose to make a bequest to charity as a means of ensuring some good deeds continue to benefit them even after their death (sadaqah jariyah). Making a bequest is optional. Please consider one of our four partner charities, Islamic Relief, Muslim Aid, Muslim Hands and Ummah Welfare Trust.

D. The remaining assets, after deducting debts, funeral expenses and bequests (if applicable) must be distributed according to Quranic injunction. The actual distribution depends entirely upon the number of surviving family members, but most likely involves parents receiving one-sixth of the assets each, and a wife (in the case of her husband passing away) one-eighth, or a husband (in the case of his wife passing away) one-quarter, with the balance shared between the children,

such that sons receive twice what daughters receive.

Please note these guidelines do not apply in all scenarios, and a scholar should be consulted to determine specific shares.

Tax Considerations

Inheritance tax is payable at a rate of 40% on all wealth, including the family home, valued over £325,000 for a single person, or £650,000 for married couples. All wealth transferred to a spouse on death is exempt from inheritance tax. Wealth transferred to anyone else on death is only exempt up to a limit of £325,000. This limit can vary over time, and is applicable for the tax year ending 5th April 2015. **This DIY Will template is therefore not suitable for those who have wealth over £325,000 (or £650,000 for a married couple).** Please see the example below.

Sajid is single, and has the following assets:

1. House valued at £250,000
2. Personal Savings of £150,000

Does Sajid have to pay Inheritance Tax? The answer is yes, as explained in the table below:

Estate Value	£400,000
Less Allowance	£325,000
Net Estate	£75,000
Tax Liability @ 40%	£30,000

Please note that if Sajid was married, both he and his wife could combine their allowances, resulting in inheritance tax only being paid on assets valued over £650,000.

English law compliance

A Will must be legally valid so that it can be enforced by the courts if the need arises. Given Shari'ah is not recognised under English Law, the easiest way to enforce Shari'ah is to place wealth "under trust", but only after death has occurred, not prior to death.

A trust is a distinct legal entity recognised under English law. It is controlled by trustees on behalf of beneficiaries (recipients), who would typically be the family members. Specific trustees can be nominated within the Will, who would be legally required to follow Shari'ah principles when distributing assets to the beneficiaries.

Laws of Intestacy

The surviving family members of someone who passes away without a Will tend to divide wealth by mutual agreement. If there is a dispute, the English courts would ultimately decide who gets what, according to the 'laws of intestacy', which do not follow Shari'ah principles. Those who are concerned about a family dispute over inheritance should prioritise the setting up of a Will.

Jointly Owned Assets



Many couples choose to own their homes or other assets in joint names, usually held under a "joint tenancy".

This means upon the death of a partner, ownership of the asset will automatically pass entirely to the surviving partner, regardless of what is stated in the Will. This goes against Shari'ah principles. Changing jointly owned assets to "tenants in common" resolves this issue by allowing the Will to determine who inherits from the share of the partner who has passed. The Land Registry website contains step-by-step instructions on how to make this change: landregistry.gov.uk

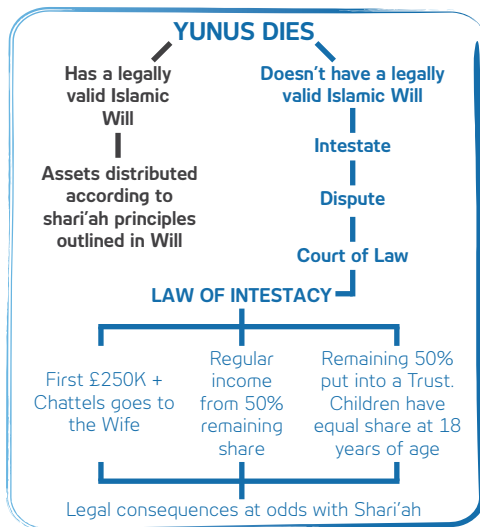
Guardianship

When preparing a Will, parents who have minor children may wish to consider who they would elect to look after their children, if both parents were to pass away whilst their children were still young. Our DIY Will template allows guardians to be nominated.

Clarifying Ownership of Wealth Before Preparing A Will



During life, some parents fail to clarify whether their home is owned jointly by husband or wife, or solely by one of them, or whether children are co-owners or employees in the family business. This type of uncertainty is Islamically incorrect and also a cause of disputes after death. Please use the list of assets sheet after the DIY Will template to clarify ownership of wealth.



Will template guidelines

PLEASE READ BEFORE COMPLETING THE DIY WILL TEMPLATE:



1. Only insert information in the white dotted box sections of the Will.
2. Please store this Will template in a safe place and inform family members of its location.
3. You will need to appoint Guardians to look after any minor children and Executors to manage your estate after your death. Please ensure you have received consent from prospective Guardians and Executors before you include their details. Should the need arise for a Guardian to be appointed, they will need to consult a scholar over Shari'ah rules pertaining to guardianship.
4. Please note for married couples, a separate Will is required for both husband and wife.
5. If you wish to use this Will, please ensure the document is signed, dated and witnessed in accordance with English Law and Shari'ah principles.
6. A Will which is unsigned, or undated or not independently witnessed by TWO persons will not be valid.
7. Please ensure the TWO witnesses are NOT family members, or married to family members, not named Executors and Trustees of the Will, or married to them, and finally are independent adults of sound mind.
8. Note your main assets and debts, along with details of bank account numbers, land registry records, etc. in the 'List Of Major Assets' after the Will template.



THIS WILL IS ONLY SUITABLE FOR:

1. Those owning assets in England or Wales who want an Islamic Will valid under English Law.
2. Those whose individual assets are valued at less than £325,000 or, for married couples, those whose joint assets are valued at £650,000 (40% inheritance tax may be payable on any assets over this amount).
3. Those who expect their surviving family to amicably distribute their wealth upon their death.

If any one of the above three conditions does not apply to you, please do not proceed with using this template, and obtain professional advice.

Last Will and testament of (insert full name)

1. REVOCATION

I REVOKE all my previous Wills and testamentary dispositions.

2. DECLARATION OF FAITH

I bear witness that there is nothing worthy of worship but Allah, the One, the Merciful, Almighty God, Creator of the Heavens and the Earth and all therein, God of Abraham, Moses, Jesus, Muhammed and all the Prophets, peace be upon them. He is the One God and He has no partner. And I bear witness that the Prophet Muhammed is His servant and His Messenger and the last of all the Prophets, peace be upon them all. I bear witness that Paradise is true, and Hell is true. And I bear witness that the coming of the Day of Judgement is true, there is no doubt about it, and that Allah, Who is exalted above all deficiency and imperfection, will surely resurrect the dead of all the generations of mankind; first and last and those in between.

This is my counsel to my relatives and friends, my Muslim brothers and sisters, and all those who remain after me: that they strive to be true Muslims and that they submit to their Creator, may He be exalted, and worship Him as He alone is to be worshipped, fear Him and love Him and His Prophet Muhammed (peace be upon him) with a complete love that is rivalled by nothing besides them. Let them obey Him and hold fast to His Shari'ah. Let them spread and firmly establish His religion of Islam, and let them die only in a state of complete submission to His will.

I remind them that no man and no woman dies before their time. The exact duration of each life span is precisely determined before we are born, by the All-Powerful Creator, may He be exalted. Death is tragic only for the one who lived out their life in self-deception without submitting to the Creator and preparing for the final return to Him. So, do not preoccupy yourselves with my death, but instead make the proper preparations for your own. Maintain patience and self-composure, as the religion of Islam requires. Islam permits male and female relatives to mourn for up to three days. However, a widow is required to observe mourning for the duration of her 'iddah (period of waiting). Wailing and excessive lamentation is forbidden by the Creator, may He be exalted.

Finally, I ask all my relatives, friends and all others, whether they choose to believe as I believed or not to honour my beliefs: I ask them to honour my instructions and wishes in this document and not to seek to alter or obstruct it in any way. Rather, let them see that I am buried as I have asked to be buried, and let my assets be divided as I have instructed them to be divided.

Any other bequests you may wish to make can be added here, for example giving up to one third to charity.
Please add below as required: Muslim Hands (No. 1105056), Muslim Aid (No. 295224), Islamic Relief (No. 1112111), Ummah Welfare Trust (No. 1000851)

I request my trustees to donate to (insert name, address and Charity Registration number):
.....
.....

To the amount (insert amount) absolutely for its general purposes and I direct that the receipt of the Treasurer or other duly authorised officer shall be a sufficient discharge to my Executors.

The foregoing shall be taken from my Trust of Residue, such that its total does not exceed one third of said remainder of the value of my total estate. Otherwise, each of the foregoing contributions shall be proportionally reduced to make the total within the "one-third limit".

3. FUNERAL WISHES

I direct my Executors, surviving relatives and friends to ensure that I have a funeral strictly in accordance with Islamic law, which must include ghusl (washing), jana-zah (funeral prayer) and dafn (burial). In particular I do not wish for an autopsy to be performed on my body, and request that my body be released for burial immediately upon death or as soon as is practical. In the event that an autopsy becomes a legal requirement, I would wish that this is met through an MRI scan if my Trustees deem it appropriate. I would also like to be buried in the Muslim Cemetery closest to the place of my death. I am aware that this is a serious obligation and would request that you use your best endeavours to reach agreement over the fundamental matters mentioned and compromise on others if you differ in opinion.

4. GUARDIANSHIP

I APPOINT my (relation)

of (insert address)

to be the Guardian of any of my children who are under the age of eighteen at the time of my death but if (he/ she) is unable or unwilling to act for any reason then I appoint:

.....

of (insert address)

to be the Guardian.

5. APPOINTMENT OF EXECUTORS AND TRUSTEES

I APPOINT

of (insert address)

and

of (insert address)

to be the Executors and Trustees of the Will.

6. RESIDUARY ESTATE

I GIVE all the residue of my estate (out of which shall be paid my funeral expenses and my debts) and any property over which I have at my death any general power of appointment to my Trustees ON TRUST to sell, call in and convert into money such parts as do not consist of money but with full power to postpone doing so for as long as they see fit without being liable for loss (and such estate and property which currently represents it is referred to in my Will as “the Trust Fund”).

7. TRUSTS OF RESIDUE

MY TRUSTEES shall hold the Trust Fund ON TRUST absolutely to be distributed and where relevant invested in accordance with Shari’ah (Islamic Law), the interpretation and application of which my Trustees in their absolute discretion shall determine provided that such distribution does not breach English Law in which case my Trustees shall apply such modifications as are necessary to comply with English Law.

8. STANDARD PROVISIONS

SUBJECT as below, the standard provisions of the Society of Trust and Estate Practitioners (1st Edition) shall apply with the deletion of paragraph 5 and with the modification of paragraph 6 such that the Trustees have the same additional powers as to the application of capital as they have as to the application of income. NEITHER Section 33 Wills Act 1837 nor Section 11 and 22 Trusts of Land and Appointment of Trustees Act 1996 shall apply to this Will. MY TRUSTEES are requested to have regard to generally accepted Islamic principles of investment and shall not be liable for the consequences of following such principles, nor for any loss to the Trust Fund that may result from investing, or keeping the Trust Fund or any part of it invested, in Islamic investments rather than non-Islamic investments. MY TRUSTEES shall not be obliged to insure any part of the Trust Fund and shall not be liable for the consequences of not insuring any part of the Trust Fund.

SIGNED by me on the (DD/MM/YY):

SIGNED by:

.....

Signature of First witness

Name

Address

Occupation

Signature of Second witness

Name

Address

Occupation

SIGNED by the said (legator)
in our presence and then by us in 'his/her' presence.

5. APPOINTMENT OF EXECUTORS AND TRUSTEES

Please include Properties (include full postal address), Bank Accounts (include name of holder, name of bank, sort code, account number), Jewellery / Diamonds / Watches etc (include details of where these are stored), Any other valuable assets not mentioned above (please use additional sheets if required)

Asset 1:

Asset 3:

Asset 2:

Asset 4:

Note to Executors / Guardians:

When required, please visit www.direct.gov.uk for details on how to obtain a death certificate and probate. Probate is a legal process which authorises the executors to access the wealth of the deceased.

CONCLUSION

Islam has placed great emphasis on distributing the wealth of a Muslim in a pre-determined manner upon death. These principles have endured for over fourteen centuries and continue to play a vital role today, not only in allowing Muslims to fulfil their religious obligations, but also in preventing wealth from being overly concentrated in the hands of the few as well as ensuring womenfolk have guaranteed rights to their own wealth.

This DIY Will template is designed to make it much easier for British Muslims to put in place a legally valid Shari'ah-compliant Will. Please remember to leave a bequest to one of our partner charities when preparing your will.

We pray the Almighty is pleased with this effort. Any errors contained herein are from us, whilst any guidance is only from our Creator.

1st Ethical Charitable Trust, established in 2003, is a leading British based educational charity. We provide a free information service on important money matters such as Zakat, Islamic Wills and Halal Money, through guides (like this document), and an email support service. If you have any questions about the information in this guide, please email info@1stethical.com

Al-Qalam Shari'ah Scholar Panel provides British Imams and Muslims with scholarly Islamic expertise on legal and financial matters. For more information, please visit alqalam.org.uk